IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6837 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DIPAKKUMAR G LANGNESHA

Versus

COMMR FOR HIGHER EDUCATION

Appearance:

1. Special Civil Application No. 6837 of 1994

MR MD RANA for Petitioner No. 1

Mr. Kunjal Pandya, AGP for Respondent No. 1-2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 27/10/2004

ORAL JUDGEMENT

1. The petitioner, under Article 226 of the Constitution of India, challenges the order dated 19th

April 1994 passed by the respondent No.1, and, consequent thereto, the order dated 28th April 1994 passed by the District Education Officer, District Junagadh, whereby, the request of the petitioner to appoint him on compassionate ground is rejected, on the ground that the income limit per month of the deceased employee is on the higher side, i.e. Rs.2297/-. which exceeds the income limit of Rs.1500/- prescribed by the Government of Gujarat as per the prevalent Rules.

2. According to the learned advocate for the petitioner, the said ceiling limit of monthly income of the deceased of Rs.1500/- is, subsequently, deleted by another Government Resolution and, accordingly, the case of the petitioner is required to be considered in light of the subsequent Government Resolution with regard to appointment on compassionate ground.

3. The learned AGP, Mr. Pandya, has submitted that the decision of the Authority cannot be said to be unjust or illegal and in view of the non-availability of the post of Junior Clerk or Peon in the school at the relevant point of time, the request of the petitioner was rejected.

4. I have heard the learned advocates for both the parties.

5. In my view, when the policy of the Government with regard to compassionate appointment to the legal heir of the deceased employee of the Government is available, and, subsequently, the criterion of ceiling limit of Rs.1500 per month of the deceased is no more in existence, it is open to the petitioner to make a representation to the respondents-Authorities, along with the subsequent Government Resolution, to bring to the notice of the Government, respondent No.1 herein, about the eligibility and fulfillment of requirement by the petitioner in accordance with law. If such a representation is made by the petitioner within four weeks from today, the respondent no.1 is directed to consider the said representation in light of Government Resolutions with regard to compassionate appointment to the legal heir of the deceased government employee, within eight weeks thereafter and to pass an order accordingly.

6. In view of the aforesaid directions and observations, no further order is required to be passed in the matter. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)